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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,056	03/12/2004	Win-Chung Lee	AD6995 USNA	6735

23906 7590 08/15/2006

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EXAMINER

CHEUNG, WILLIAM K

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,056

Applicant(s)

LEE ET AL.

Examiner

William K. Cheung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>072406</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of amendment filed July 24, 2006, new claim 21 has been added. Claims 1-21 are pending. The examiner acknowledges the receipt of Terminal Disclaimer filed July 24, 2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blatz (US 5,770,654) in view of Hedrick et al. (US 3,419,517) for the reasons adequately set forth from paragraph 4 of the office action of May 5, 2006.

Applicant's arguments filed July 24, 2006 have been fully considered but they are not persuasive. Applicants continue argue that the references of Blatz and Hedrick et al. are not combinable because Blatz in the claims recites "consisting essentially of" and therefore Blatz's teaching teaches away from the claimed invention and from Hedrick et al. Applicants continue the "teaching away" argument by arguing that the recited "consisting essentially of" appears in the Summary of the Invention, not just in the claims, to limit the scope of the invention of Blatz. However, applicants continue to fail to recognize that teachings in the claims or in the Summary of Blatz only represent the preferable embodiment of the disclosed invention. One of ordinary skill in art would have studied the all the embodiments taught in Blatz to recognize that the incorporation of mineral filler is a viable way to further modify the disclosed invention (col. 4, line 20-23, 27-31). Therefore, the examiner maintains that the references to Blatz and Hedrick et al. are combinable.

Regarding the new claim 21, Blatz (col. 3, line 17-30) clearly teaches a polyvinyl butyral comprising an anhydride.

Regarding applicants' argument that Hedrick et al. do not teach the incorporation of a free-flowing toughener, applicants fail to recognize the Blatz (abstract; col. 3, line 10-57) has already disclosed thermoplastic polyamide compositions that have been toughened. Regarding the argued "compatibility" of the mineral filler with the disclosed resin, applicants must recognize that Hedrick et al. (col. 19, line 61-64) clearly teach using 0.3 weight percent of silane coupling agent along with the use of fillers in the disclosed polyamide composition. Therefore, applicants' argued "compatibility" is not an issue. Since applicants' claims as written do not exclude the silane coupling agent of Hedrick et al., the rejection set forth is proper.

Regarding applicants' argued "unexpected results" that when the toughener of the claimed invention is used in mineral filled system, the impact values are comparable or better than those obtained with Zytel® 101 nylon resin itself, what is so "unexpected" about the results? Applicants must recognize that it is well known in the art of polymer composite materials that when a toughener is added to plastic materials, the plastic materials are expected to be improved in mechanical properties such as Notched Izod Impact properties. Therefore, applicants' argument is not persuasive.

Again, applicants argue that the combination of the references of Blatz and Hedrick is a result of a hindsight after reading applicants' disclosure. However, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on

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obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

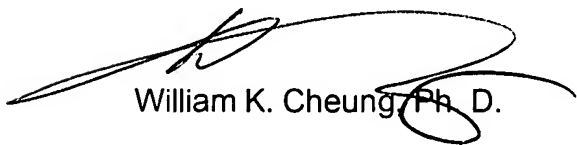
4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William K. Cheung Ph. D.

Primary Examiner

August 13, 2006

**WILLIAM K. CHEUNG
PRIMARY EXAMINER**